
UTAH LABOR COMMISSION

WESLEY E. REED,

Petitioner,

vs.

**CENTRAL REFRIGERATED
FREIGHT SERVICES and
PROTECTIVE INSURANCE
CO.,**

Respondents.

**ORDER AFFIRMING
ALJ'S DECISION**

Case No. 06-0666

Wesley E. Reed asks the Utah Labor Commission to review Administrative Law Judge Trayner's denial of additional benefits to Mr. Reed under the Utah Workers' Compensation Act, Title 34A, Chapter 2, Utah Code Annotated.

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Annotated § 63G-4-301 and § 34A-2-801(3).

BACKGROUND AND ISSUE PRESENTED

Mr. Reed claims workers' compensation benefits from Central Refrigerated Freight Services and its insurance carrier, Protective Insurance Co., (referred to jointly as "Central") for a work accident that occurred on December 19, 2006, causing injury to his back. The parties waived their right to an evidentiary hearing, stipulated to facts and a direct referral of medical issues in dispute to a medical panel. Judge Trayner found, based on the findings of the panel, no additional temporary total compensation was due and future medical care would be based on the panel's recommendation for conservative medical care, rather than further diagnostic tests and surgery.

In his motion for review, Mr. Reed argues that the panel's opinion should be disregarded and the Commission should accept his evidence that shows his condition does require further diagnostic testing and surgery and therefore additional temporary total disability compensation.

FINDINGS OF FACT

The Commission adopts Judge Trayner's findings of fact as supplemented by the parties' fact stipulation. The facts relevant to the motion for review are as follows:

On December 19, 2006, while working at Central, Mr. Reed slipped and fell. Initial x-rays showed no acute findings and an MRI revealed mild degenerative disc disease of Mr. Reed's lumbar spine. Dr. Hawkins diagnosed a strain superimposed over preexisting degenerative changes and

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recommended conservative treatment rather than surgery. Mr. Reed was evaluated by Dr. Benner for a second opinion. Dr. Benner agreed with Dr. Hawkins that Mr. Reed would not be a good surgical candidate. Dr. Hawkins found Mr. Reed had reached medical stability by May 23, 2006. Central continued to pay Mr. Reed temporary total until May 29, 2006.

Mr. Reed sought another opinion from Dr. Verst. Dr. Verst found Mr. Reed was not yet medically stable from the work injury and recommended surgery. Mr. Reed also obtained another opinion from Dr. Hastings, who agreed that Mr. Reed was not yet stable but wanted further diagnostics to see if Mr. Reed was a candidate for surgery.

The medical panel, consisting of a neurologist and an orthopedic surgeon and spine specialist, reviewed the parties' fact stipulation, medical records exhibit, and examined Mr. Reed. The panel found that Mr. Reed reached medical stability by May 23, 2006, and that Mr. Reed would not be a good surgical candidate, thus making it unnecessary to order further diagnostics. Further conservative treatment was recommended.

DISCUSSION AND CONCLUSION OF LAW

Mr. Reed disputes the panel's findings and argues the opinions of his doctors, as well as his own observations of his pain levels, is more convincing. In matters where there are conflicting medical opinions, the Commission has the authority to appoint an impartial medical panel to weigh in on the medical issues in dispute. Here, the parties also agreed that the disputed medical issues would be sent to the panel for resolution. The medical panel consisted of two medical specialists with no affiliation to either party who reviewed Mr. Reed's medical records—including the opinions of his own two physicians—the parties' stipulated facts, and personally examined Mr. Reed. The Commission finds the impartiality and medical expertise of these doctors and their opinion, persuasive and supported by the medical evidence. Although Mr. Reed is not satisfied with the outcome of the panel's findings, he has not presented any evidence that would disqualify the panel's opinion from consideration. For the foregoing reasons, the Commission concurs with Judge Trayner's findings, based on the medical panel's opinion, and affirms her decision.

ORDER

The Commission affirms Judge Trayner's decision. It is so ordered.

Dated this 26th day of February, 2009.

Sherrie Hayashi
Utah Labor Commissioner

IMPORTANT! NOTICE OF APPEAL RIGHTS FOLLOWS ON NEXT PAGE.

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NOTICE OF APPEAL RIGHTS

Any party may ask the Labor Commission to reconsider this Order. Any such request for reconsideration must be received by the Labor Commission within 20 days of the date of this order. Alternatively, any party may appeal this order to the Utah Court of Appeals by filing a petition for review with the court. Any such petition for review must be received by the court within 30 days of the date of this order.